

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 28 - HB 1297

February 14, 2017

SUMMARY OF BILL: Authorizes punitive damages in actions under the Uniform Fraudulent Transfer Act, title 66, chapter 3, part 3, and authorizes a court to award reasonable attorney's fees, court costs, and incurred legal expenses to a prevailing creditor.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Title 66, chapter 3, part 3 contains the Uniform Fraudulent Transfer Act. Under this act, a transfer of personal or real property will be held fraudulent if done with the intent to hinder, delay, or defraud any creditor of the debtor.
- A prevailing creditor under the Act may file an action for relief and obtain avoidance of the transfer, attachment or other provisional remedy, or injunction. The proposed legislation would entitle a prevailing creditor to obtain an award of punitive damages.
- Further, the proposed legislation authorizes a court to award a prevailing creditor, upon finding that a debtor made a fraudulent transfer, reasonable attorney's fees, court costs, and incurred legal expenses.
- Most actions between creditor and debtor involve private parties, but the Bureau of TennCare and the Department of Revenue can pursue actions against enrollees and taxpayers as debtors. TennCare seeking to recoup the cost of covering the enrollee during their life, and Revenue seeking to collect taxes in arrears.
- However, it is assumed that the proposed legislation will not increase state revenue from obtaining awards of punitive damages; therefore, any impact is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee".

Krista M. Lee, Executive Director

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